



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Utah State Office

P.O. Box 45155

Salt Lake City, UT 84145-0155

<http://www.blm.gov>

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TAKE PRIDE IN AMERICA
OIL, GAS & MINING

IN REPLY REFER TO:

3590

UTU-0126943

(UT-923)

JUL 26 2005

CERTIFIED MAIL--Return Receipt Requested

American Gilsonite Company

Mr. Dave Lewis

HC 73 Box 28,

Vernal, Utah 84078

RE: Mining Plan for Federal Gilsonite Lease UTU-0126943

NOTICE OF NONCOMPLIANCE

The Bureau of Land Management (BLM) is issuing this notice of non-compliance to American Gilsonite Company (AGC) for mining on Federal Gilsonite Lease UTU-0126943 without an approved mining plan in accordance with 43 CFR 3592.1.

On June 28, 2005 AGC informed the BLM inspector that no mining had occurred on Federal Gilsonite Lease UTU-0126943 during the past quarter therefore BLM only performed a surface inspection of the lease. On July 13 BLM requested that AGC send a production map of the Wagonhound #17 mine with the associated Federal Gilsonite lease boundaries (The Wagonhound #17 mine is located on private lands and borders Federal Gilsonite leases UTU-0126943 and UTU-0126943.) for production verification purposes. The map previously did not have the lease boundary for Federal Gilsonite Lease UTU-0126943. After receiving the map, BLM soon discovered that mining had occurred in March, April and May of 2005 that extended from the private lands being mined by AGC at the Wagonhound #17 mine onto Federal Gilsonite Lease UTU-0126943 without an approved mining plan. In addition Federal Royalties have not been paid for this mined area. BLM estimates the tonnage at 92.5 tons.

As a note, the NE escapeway for the Wagonhound #17 mine is partially on Federal Gilsonite Lease UTU-0126943 without an approval and is being handled under a separate action. The drift extending to the NE was approved under an exploration plan.

Requirements to Correct the Noncompliance:

Within 30 days of receipt of this Notice of Non-Compliance, BLM requires that;

1. AGC submit a survey with an associated map, performed by a licensed surveyor in the State of Utah that details the escapeways and main shaft of the Wagonhound #17 mine with the associated lease boundaries of Federal Gilsonite Leases UTU-0126943 and UTU-073071.
2. Submit payment of Royalties to the Minerals Management Service and provide BLM with proof of payment.

3. For consistency purposes, a mining plan modification for Federal Gilsonite lease UTU-073071 showing timing and extraction from Wagonhound #17 on to this federal lease.

Failure to comply with the Noncompliance:

Failure to comply with this notice of noncompliance may result in a legal proceedings to cancel the lease and as per 43 CFR 3598.4(a).

Appeal Rights

You have 30 calendar days from the receipt of this notice to come into compliance. Following the compliance period, you then have 30 calendar days to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 calendar days following the end of the compliance period. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that you appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards;

- (1) The relative harm to the parties if a stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of the immediate and irreparable harm if the stay is not granted, and;
- (4) Whether the public interest favors granting the stay.

Sincerely,

JAMES F KOHLER

James F. Kohler
Chief, Solid Minerals Branch

Enclosure Form 1842-1

cc: VFO

Paul Baker, Utah Division of Oil, Gas and Mining, P.O. Box 145801, Salt Lake City, Utah 84114-5801 w/o enc.

Doug Danato, Minerals Management Service, P.O. Box 25165, Mail Stop 390B2, Denver, Colorado, 80225 w/o enc.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL Within 30 days, file a *Notice of Appeal* in the office which issued this decision (see 43 CFR Secs. 4.411 and 4.413). You may state your reasons for appealing, if you desire.
2. WHERE TO FILE
NOTICE OF APPEAL

Bureau of Land Management Utah State Office 440 West 200 South, Suite 500 Salt Lake City, Utah 84101	Bureau of Land Management Utah State Office P. O. Box 45155 Salt Lake City, UT 84145-0155
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- SOLICITOR
ALSO COPY TO

Regional Solicitor Room 6201 125 South State Street Salt Lake City, Utah 84111	
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3. STATEMENT OF REASONS Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 801 N. Quincy St., Suite 300, Arlington, Virginia 22203 (see 43 CFR Sec. 4.412 and 4.413). If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary.
- SOLICITOR
ALSO COPY TO
4. ADVERSE PARTIES Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (see 43 CFR Sec. 4.413). Service will be made upon the Associate Solicitor, Division of Energy and Resources, Washington D.C. 20240, instead of the Field or Regional Solicitor when appeals are taken from the decisions of the Director (WO-100)
5. PROOF OF SERVICE Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 801 N. Quincy St., Suite 300, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see 43 CFR Sec. 4.401(c)(2)).

Unless these procedures are followed, your appeal will be subject to dismissal (see 43 CFR Sec. 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (see 43 CFR Sec. 4.401(a))